

1 COUNCIL BILL NO. 7

2
3 Series 2024

4
5 **A BILL FOR AN ORDINANCE AMENDING THE DEVELOPMENT CODE**
6 **TO CREATE DEFENSIBLE SPACE FOR MITIGATION OF WILDFIRE.**

7
8 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF**
9 **BRECKENRIDGE, COLORADO:**

10
11 **Section 1.** That a new definition be added to section 9-1-5, underlined to read
12 as follows:

13 DOWNTOWN CORE: A delineated land area of the Town established by the Downtown
14 Core Map located in Policy 22A and Policy 48A used to distinguish properties that
15 require additional consideration of the site in regard to the implementation of Defensible
16 Space.

17 **Section 2.** That beginning at subsection C., entitled Required Wildfire Mitigation,
18 of section 9-1-19-22A: Policy 22 (Absolute) Landscaping, the section be amended by
19 deleting the language stricken and adding the language underlined to read as follows:

20 C. Required Wildfire Mitigation:

21 1. The creation of defensible space around structures is required for all new
22 construction and for major remodels¹ that affect the exterior of a structure and/or a
23 structures footprint.

24 2. Properties that are located within the ~~conservation district~~, Downtown Core, and
25 those master planned properties with approved setbacks smaller than the setbacks
26 described in section 9-1-19-9A, "Policy 9 (Absolute) Placement Of Structures", of
27 this chapter, shall be given special consideration to allow for site buffers and
28 screening to be created ~~and~~, maintained, and protected while still meeting the intent
29 of reducing wildfire fuels.

30 3. The following standards shall apply to the creation of defensible space around a
31 structure:

1 a. The property shall be divided into ~~three (3)~~ four (4) zones shown in the table
 2 below. The zones shall measure from the eaves of the building or structure
 3 including attached structures or protrusions, such as a deck on the property.
 4 ~~Zone one shall be measured thirty feet (30') from the eaves of the building or~~
 5 ~~structure including attached structures or protrusions, such as a deck on the~~
 6 ~~property. Zone two shall be measured seventy five feet (75') or greater from the~~
 7 ~~eaves of the building or structure including attached structures or protrusions,~~
 8 ~~such as a deck on the property, depending on slope from the eaves of the~~
 9 ~~building or structure on the property, and shall exclude the portion of the~~
 10 ~~property located within zone one. Zone three shall extend beyond zone two to~~
 11 ~~the property boundary.~~

<u>Zone</u>	<u>Distance</u>
<u>Immediate Zone</u>	<u>0' to 5'</u>
<u>Intermediate Zone</u>	<u>5' to 30'</u>
<u>Extended Zone 1</u>	<u>30' to 60'</u>
<u>Extended Zone 2</u>	<u>60' and greater</u>

12

13 b. Except as may be required to comply with the requirements of title [5](#),
 14 chapter [11](#) of this code concerning mountain pine beetle infested trees, no
 15 portion of any property may be "clear cut" in order to achieve defensible space.

16 c. Except as may be required to comply with the requirements of title [5](#),
 17 chapter [11](#) of this code concerning mountain pine beetle infested trees, no more
 18 trees shall be allowed to be removed than are necessary in order for the
 19 landowner to create defensible space around his or her property.

20 d. Both the horizontal clearance between aerial fuels, such as the outside edge
 21 of the tree crowns or high brush, as well as the vertical clearance between lower

1 limbs of aerial fuels and the nearest surface fuels and grass/weeds, shall be
2 considered when determining compliance with the defensible space
3 requirements of this policy.

4 e. Each property shall be reviewed individually, and the location and other
5 physical characteristics of the property shall be considered. Without limiting the
6 generality of the preceding provisions, the planning commission shall consider
7 the property's proximity to a roadway, parking lot, and other similar areas that
8 create fuel firebreaks. Similarly, large tracts of open space and forest service
9 land that may require larger buffers shall be considered.

10 4. Immediate Zone: The following specific standards apply to the creation of
11 defensible space within the immediate zone ~~one~~ (0-5'):

12 a. All dead and diseased trees, shrubs, and other landscaping materials shall
13 be removed.

14 b. All vegetation and combustible and flammable material shall be removed
15 from under all eaves, decks, and other architectural features. This includes, but is
16 not limited to, mulch, combustible ground debris, flammable plants, leaf and needle
17 clutter, and firewood piles.

18 c. All grasses and ground cover shall be kept under six inches (6") in height;
19 provided, however, plantings in irrigated planting beds, wildflowers or native grasses
20 may exceed six inches (6") during the time the irrigation system is operable only. All
21 plantings in irrigated planting beds must be cut when the irrigation system in no
22 longer operable.

23 d. All flammable vegetation, such as trees and shrubs, shall be removed from the
24 first five feet (5') extending from the edge of the structure, eaves, decks, and other
25 architectural features, however, properties defined by 9-1-19-22A(C)(2) shall be
26 given special consideration to allow for site buffers and screening to be created,
27 maintained, and protected while still meeting the intent of reducing wildfire fuels.

1 e. Additional Firewise landscaping material is encouraged and may be authorized
2 by the development permit.

3 5. Intermediate Zone: The following specific standards apply to the creation of
4 defensible space within the intermediate zone (5' -30'):

5 a. Healthy trees, shrubs, and other landscaping materials that provide visual
6 buffers shall be preserved if they are well spaced so as to reduce the risk of a
7 fire spreading to other vegetation or structures, but shall be pruned to remove
8 dead branches.

9 b. Healthy trees, shrubs, and other landscaping material required by an
10 existing approved landscape plan shall be preserved if they are well spaced so
11 as to reduce the risk of a fire spreading to other vegetation or structures, but
12 shall be pruned to remove dead branches.

13 c. Other healthy firewise trees, shrubs, and other landscaping material shall be
14 preserved if they are well spaced so as to reduce the risk of a fire spreading to
15 other vegetation or structures, but shall be pruned to remove dead branches.

16 d. Irrigated trees, shrubs, and other landscaping material may be preserved if
17 they are pruned to remove dead branches and well spaced to reduce the risk of
18 a fire spreading to other vegetation or structures.

19 e. All dead and diseased trees, shrubs, and other landscaping material shall
20 be removed.

21 ~~f. All vegetation and combustible material shall be removed from under all~~
22 ~~eaves and decks.~~

23 g. All leaf clutter, dead branches, and dead standing trees shall be removed
24 from the property. Dead branches on living trees shall be trimmed to a minimum
25 height of six feet (6') and a maximum height of ten feet (10') above the ground.

26 ~~hg. All grasses and ground cover shall be kept under six inches (6") in height.~~

1 ~~Exception: Plantings located in an irrigated planting bed, and wildflowers or~~
2 ~~native grasses; however, wildflowers and native grasses shall be cut back to~~
3 ~~under six inches (6") in height in the fall of each year once they go to seed. All~~
4 grasses and ground cover shall be kept under six inches (6") in height;
5 provided, however, plantings in irrigated planting beds, wildflowers or native
6 grasses may exceed six inches (6") during the time the irrigation system is
7 operable only. All plantings in irrigated planting beds must be cut when the
8 irrigation system is no longer operable.

9 h. All leaf and needle clutter and combustible ground debris shall be removed.
10 Mulch within landscape beds that are irrigated may be maintained at a
11 maximum depth of three inches (3").

12 ii. All firewood shall be removed unless covered by a canvas tarp, or as
13 approved by the fire district.

14 56. Extended Zone One: The following specific standards apply to the creation of
15 defensible space within the extended zone two-one (30'-60'):

16 a. Healthy trees, shrubs, and other landscaping material required by an
17 approved landscape plan shall be preserved.

18 b. Healthy trees, shrubs, and other landscaping material that provide visual
19 buffers shall be preserved if they are well spaced so as to reduce the risk of a
20 fire spreading to other vegetation or structures, but shall be pruned to remove
21 dead branches.

22 c. Other healthy firewise trees, shrubs, and other landscaping material shall be
23 preserved if they are well spaced so as to reduce the risk of a fire spreading to
24 other vegetation or structures, but shall be pruned to remove dead branches.

25 d. Irrigated trees, shrubs and other landscaping material may be preserved if
26 they are pruned to remove dead branches and are well spaced to reduce the
27 risk of a fire spreading to other vegetation or structures.

1 e. All dead and diseased trees, shrubs, and other landscaping material shall
2 be removed. However, one snag per acre may be preserved for wildlife habitat if
3 it is well spaced to avoid the spread of fire to other vegetation or structures.

4 f. Trees shall be thinned to open up crown spacing to a minimum of ~~ten~~ twelve
5 feet (102') between the widest portion of individual crowns of the trees.

6 g. Groups of trees with a minimum of ~~ten~~ twelve feet (102') between the edges
7 of the widest portions of crowns of each grouping shall be preserved to allow
8 buffers to remain and to prevent wind throw.

9 h. Firewood may be maintained if an adequate buffer around the firewood is
10 determined to exist by the fire district.

11 67. Extended Zone Two: The following specific standards apply to the creation of
12 defensible space within the extended zone three two (60' and greater):

13 a. All dead and diseased trees, shrubs, and other landscaping material shall
14 be removed. However, one snag per acre may be preserved for wildlife habitat if
15 it is well spaced to avoid the spread of fire to other vegetation or structures.

16 78. New landscaping installed on a property shall comply with the requirements of
17 subsections C(4), C(5) ~~and~~, C(6), and C(7) of this section.

18 9. The director has the authority from time to time to adopt, amend, alter and repeal
19 administrative rules and regulations as necessary for the proper administration of
20 this policy. Such regulations shall be adopted in accordance with the procedures
21 established by title 1, chapter 18 of this code. The director's administrative rules
22 may include, without limitation, spacing guidelines for trees, shrubs, and other
23 vegetation and, if adopted, shall provide that the allowed distances between
24 vegetation will depend on slopes, vegetation size, vegetation type (trees, shrubs,
25 grass), and other fuel characteristics (including, but not limited to, fuel compaction
26 and chemical content). In the event there is a conflict between these rules and
27 regulations and the ordinance, the ordinance shall control.

1 10. Trees, shrubs, and other landscaping authorized by the director to be removed
2 by the landowner in order to achieve the required defensible space shall be clearly
3 identified in the field and photographed or located by global positioning satellite
4 software by the director.

5 11. Prior to issuing a development permit authorizing the creation of defensible
6 space Town staff shall conduct a physical inspection of each building, structure, or
7 property that is the subject of the application.

8 12. Downtown Core Map

9 Properties that have been identified within the Downtown Core Map feature different
10 fire risk characteristics compared to areas outside of the commercial core. Due to
11 the existing tight urban development pattern and character defining aesthetics
12 encompassed by the National Register Historic District, further consideration must
13 be given to best comply with the intent of the standards outlined above. For
14 example, a limited number of plantings within the Immediate Zone would be able to
15 be installed, maintained, and preserved within this delineated area.

16 **Section 3.** That beginning at subsection C. of section 9-1-19-48A: Policy 48
17 (Absolute) Voluntary Defensible Space, the code be amended by deleting the language
18 stricken and adding the language underlined to read as follows:
19

20 C. Properties that are located within the Downtown Core, and those master
21 planned properties with approved setbacks smaller than the setbacks described in
22 section [9-1-19-9A](#), "Policy 9 (Absolute) Placement Of Structures", of this chapter,
23 shall be given special consideration to allow for site buffers and screening to be
24 created, maintained, and protected while still meeting the intent of reducing wildfire
25 fuels.

26 D. The following standards shall apply to an application for the voluntary creation of
27 defensible space:

1 1. The property shall be divided into ~~three~~ four (34) zones shown in the table
 2 below. The zones shall measure from the eaves of the building or structure
 3 including attached structures or protrusions, such as a deck on the property. Zone
 4 one shall be measured thirty feet (30') from the eaves of the building or structure
 5 including attached structures or protrusions, such as a deck on the property. Zone
 6 two shall be measured seventy five feet (75') or greater from the eaves of the
 7 building or structure including attached structures or protrusions, such as a deck on
 8 the property, depending on slope from the eaves of the building or structure on the
 9 property, and shall exclude the portion of the property located within zone one. Zone
 10 three shall extend beyond zone two to the property boundary.

<u>Zone</u>	<u>Distance</u>
<u>Immediate Zone</u>	<u>0' to 5'</u>
<u>Intermediate Zone</u>	<u>5' to 30'</u>
<u>Extended Zone 1</u>	<u>30' to 60'</u>
<u>Extended Zone 2</u>	<u>60' and greater</u>

11

12 2. Except as may be required to comply with the requirements of title [5](#), chapter [11](#)
 13 of this code concerning mountain pine beetle infested trees, no portion of any
 14 property may be "clear cut" in order to achieve defensible space.

15 3. Except as may be required to comply with the requirements of title [5](#), chapter [11](#)
 16 of this code concerning mountain pine beetle infested trees, no more trees shall be
 17 allowed to be removed than are necessary in order for the landowner to create
 18 defensible space around his or her property.

19 4. In reviewing an application for the voluntary creation of defensible space the
 20 director shall consider both the horizontal clearance between aerial fuels, such as
 21 the outside edge of the tree crowns or high brush, as well as the vertical clearance
 22 between lower limbs of aerial fuels and the nearest surface fuels and grass/weeds.

23 5. Each property that is the subject of an application for the voluntary creation of
 24 defensible space shall be reviewed individually, and the location and other physical
 25 characteristics of the property shall be considered. Without limiting the generality of

1 the preceding provisions, the director shall consider the property's proximity to a
2 roadway, parking lot, and other similar areas that create fuel firebreaks. Similarly,
3 large tracts of open space and forest service land that may require larger buffers
4 shall be considered.

5 DE. Immediate Zone: The following specific standards apply to the creation of
6 defensible space within the Immediate zone one (0'-5'):

7 1. All dead and diseased trees, shrubs, and other landscaping materials shall be
8 removed.

9 2. All vegetation and combustible and flammable material shall be removed from
10 under all eaves, decks, and other architectural features. This includes, but is not
11 limited to, mulch, combustible ground debris, flammable plants, leaf and needle
12 clutter, and firewood piles.

13 3. All grasses and ground cover shall be kept under six inches (6") in height;
14 provided, however, plantings in irrigated planting beds, wildflowers or native
15 grasses may exceed six inches (6") during the time the irrigation system is
16 operable only. All plantings in irrigated planting beds must be cut when the
17 irrigation system is no longer operable.

18 4. All flammable vegetation, such as trees and shrubs, shall be removed from the
19 first five feet (5') extending from the edge of the structure, eaves, decks, and
20 other architectural features, however, properties defined by 9-1-19-22A(C)(2)
21 shall be given special consideration to allow for site buffers and screening to be
22 created, maintained, and protected while still meeting the intent of reducing
23 wildfire fuels.

24 5. Additional firewise landscaping material is encouraged and may be authorized
25 by the development permit.

26 6. To prevent fire spreading by coming in direct contact with structures, a non-
27 combustible, horizontal layer, known as a rock dripline, may be implemented.
28 The follow specific standards apply:

29 a. Properties located within the Downtown Core:

1 A. It is encouraged that structures implement a horizontal clearance
2 area starting at the structure's siding and extending the distance of
3 the eave overhang, or a maximum of three feet (3') to reduce
4 structural ignitability. The clearance area should utilize non-
5 combustible material, such as rock, gravel, sand, cement, or
6 stone/concrete pavers.

7 b. Properties located outside of the Downtown Core

8 A. It is encouraged that structures implement a horizontal clearance
9 area starting at the structure's siding and extending the distance of
10 the eave overhang, or a maximum of five feet (5') to reduce
11 structural ignitability. The clearance area should utilize non-
12 combustible material, such as rock, gravel, sand, cement, or
13 stone/concrete pavers.

14 F. Intermediate Zone: The following specific standards apply to the create of
15 defensible space within the Intermediate zone (5'-30'):

16 1. Healthy trees, shrubs, and other landscaping materials that provide visual
17 buffers shall be preserved if they are well spaced so as to reduce the risk of a fire
18 spreading to other vegetation or structures, but shall be pruned to remove dead
19 branches.

20 2. Healthy trees, shrubs, and other landscaping material required by a town
21 approved landscape plan shall be preserved if they are well spaced so as to reduce
22 the risk of a fire spreading to other vegetation or structures, but shall be pruned to
23 remove dead branches.

24 3. Other healthy firewise trees, shrubs, and other landscaping material shall be
25 preserved if they are well spaced so as to reduce the risk of a fire spreading to other
26 vegetation or structures, but shall be pruned to remove dead branches.

27 4. Irrigated trees, shrubs, and other landscaping material may be preserved if they
28 are pruned to remove dead branches and well spaced to reduce the risk of a fire
29 spreading to other vegetation or structures.

30 5. All dead and diseased trees, shrubs, and other landscaping material shall be
31 removed.

1 ~~6. All vegetation and combustible material shall be removed from under all eaves~~
2 ~~and decks.~~

3 7. All leaf clutter, dead branches, and dead standing trees shall be removed from
4 the property. Dead branches on living trees shall be trimmed to a minimum height of
5 six feet (6') and a maximum height of ten feet (10') above the ground.

6 ~~87. All grasses and ground cover shall be kept under six inches (6") in height.~~

7 ~~Exception: Plantings located in an irrigated planting bed, and wildflowers or native~~
8 ~~grasses; however, wildflowers and native grasses shall be cut back to under six~~
9 ~~inches (6") in height in the fall of each year once they go to seed. All grasses and~~
10 ~~ground cover shall be kept under six inches (6") in height; provided, however,~~
11 ~~plantings in irrigated planting beds, wildflowers or native grasses may exceed six~~
12 ~~inches (6") during the time the irrigation system is operable only. All plantings in~~
13 ~~irrigated planting beds must be cut when the irrigation system is no longer operable.~~

14 ~~98. All leaf and needle clutter and combustible ground debris shall be removed.~~
15 ~~Mulch within landscape beds that are irrigated may be maintained at a maximum~~
16 ~~depth of three inches (3").~~

17 ~~109. All firewood shall be removed unless covered by a canvas tarp, or as~~
18 ~~approved by the fire district.~~

19 ~~140. Additional firewise landscaping material is encouraged and may be~~
20 ~~authorized by the development permit.~~

21 ~~EG. Extended Zone One: The following specific standards apply to the creation of~~
22 ~~defensible space within the extended zone two one (0'-5'30'-60'):~~

23 1. Healthy trees, shrubs, and other landscaping material required by a town
24 approved landscape plan shall be preserved.

25 2. Healthy trees, shrubs, and other landscaping material that provide visual buffers
26 shall be preserved if they are well spaced so as to reduce the risk of a fire spreading
27 to other vegetation or structures, but shall be pruned to remove dead branches.

28 3. Other healthy firewise trees, shrubs, and other landscaping material shall be
29 preserved if they are well spaced so as to reduce the risk of a fire spreading to other
30 vegetation or structures, but shall be pruned to remove dead branches.

1 4. Irrigated trees, shrubs and other landscaping material may be preserved if they
2 are pruned to remove dead branches and are well spaced to reduce the risk of a fire
3 spreading to other vegetation or structures.

4 5. All dead and diseased trees, shrubs, and other landscaping material shall be
5 removed. However, one snag per acre may be preserved for wildlife habitat if it is
6 well spaced to avoid the spread of fire to other vegetation or structures.

7 6. Trees shall be thinned to open up crown spacing to a minimum of ~~ten~~ twelve
8 feet (~~10~~12') between the widest portion of individual crowns of the trees.

9 7. Groups of trees with a minimum of ~~ten~~ twelve feet (~~10~~12') between the edges of
10 the widest portions of crowns of each grouping shall be preserved to allow buffers to
11 remain and to prevent wind throw.

12 8. Firewood may be maintained if an adequate buffer around the firewood is
13 determined to exist by the fire district.

14 9. Additional firewise landscaping material is encouraged and may be authorized
15 by the development permit.

16 FH. Extended Zone Two: The following specific standards apply to the creation of
17 defensible space within the Extended zone three two (60' and greater):

18 1. All dead and diseased trees, shrubs, and other landscaping material shall be
19 removed. However, one snag per acre may be preserved for wildlife habitat if it is
20 well spaced to avoid the spread of fire to other vegetation or structures.

21 2. Additional firewise landscaping material is encouraged and may be authorized
22 by the development permit.

23 G. The director has the authority from time to time to adopt, amend, alter and repeal
24 administrative rules and regulations as necessary for the proper administration of this
25 policy. Such regulations shall be adopted in accordance with the procedures
26 established by title 1, chapter 18 of this code. The director's administrative rules may
27 include, without limitation, spacing guidelines for trees, shrubs, and other vegetation
28 and, if adopted, shall provide that the allowed distances between vegetation will depend
29 on slopes, vegetation size, vegetation type (trees, shrubs, grass), and other fuel
30 characteristics (including, but not limited to, fuel compaction and chemical content). In

1 the event there is a conflict between these rules and regulations and the ordinance, the
2 ordinance shall control.

3 ~~H. For the purpose of attempting to make certain that tree removal contractors working~~
4 ~~within the town are familiar with the goals of this policy, but not to regulate the means,~~
5 ~~methods, training, equipment, or business practices of tree removal contractors, the~~
6 ~~director shall maintain a list of town approved tree removal contractors. The town makes~~
7 ~~no guarantees or representations whatsoever concerning the qualifications, experience,~~
8 ~~ability, competence, or business practices of any town approved tree removal~~
9 ~~contractor. The town has no liability to any person with respect to the work or business~~
10 ~~practices of a town approved tree removal contractor, and no action at law or in equity~~
11 ~~shall lie against the town as a result of a person being placed on or removed from the~~
12 ~~director's list of town approved tree removal contractors. The director may provide in his~~
13 ~~rules and regulations for the removal of a contractor from the list of town approved~~
14 ~~contractors.~~

15 ~~IJ. Trees, shrubs, and other landscaping authorized by the director to be voluntarily~~
16 ~~removed by the landowner in order to achieve the required defensible space shall be~~
17 ~~clearly identified in the field and photographed or located by global positioning satellite~~
18 ~~software by the director.~~

19 ~~JK. The fire district may assist the director in administering this policy if authorized by~~
20 ~~an intergovernmental agreement with the town. The intergovernmental agreement shall~~
21 ~~be consistent with the provisions of this policy Development Code. All personnel~~
22 ~~involved in the enforcement of this policy shall be trained by the director to make sure~~
23 ~~that they are aware of the town's goals of preserving buffers and required landscape~~
24 ~~materials while creating defensible space.~~

25 L. Downtown Core Map

26 Properties that have been identified within the Downtown Core Map feature different fire
27 risk characteristics compared to areas outside of the commercial core. Due to the
28 existing tight urban development pattern and character defining aesthetics
29 encompassed by the National Register Historic District, further consideration must be
30 given to best comply with the intent of the standards outlined above. For example, a
31 limited number of plantings within the Immediate Zone would be able to be installed,
32 maintained, and preserved within this delineated area.

Downtown Core Map

